IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO: 17977 of 2003

Between:

Ch. Bhaskar, s/o Sambaiah
Drawing Teacher, Saraswathi High School, (Aided), Kareemabad, Warangal.

... PETITIONER

AND

1 The District Educational Officer, Warangal.
2 The Regional Joint Director of School Education, Warangal.
3 The Deputy Educational Officer, Warangal.
4 The Correspondent and Secretary, Saraswathi High School, Kareemabad, Warangal.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of mandamus declaring that the petitioner is deemed to be treated as having been absorbed in the existing aided post of Craft Instructor/Drawing Teacher on the basis of his service and experience and qualifications and also seniority with all consequential benefits by holding the action of the respondents in resorting to fill up the posts of Craft Instructor/Drawing Teacher by outsiders without absorbing the petitioner on the untenable ground that there are no departmental orders are issued for absorption in spite of correspondence between the respondents as is clear from letter dated 19-10-2000

read with Lr.No.26/SHS/1994, DATED 1-4-2002 is as illegal, arbitrary, discriminatory, unjust and violative of Articles 14, 16 and 21 of the Constitution.

Counsel for the Petitioner: MR.D.LINGA RAO

Counsel for the Respondents 1 to 3: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.4: Mr. S. Lakshma Reddy

The Court made the following Order:

ORDER:

The case of the petitioner is that he is entitled to be absorbed in the existing aided post of Craft Instructor / Drawing Teacher on the basis of his past service, experience, qualifications and also seniority, with all consequential benefits. It is further stated that there is correspondence to show that the fourth respondent passed a resolution for the absorption of the petitioner who is working in an un-aided post of Drawing Master in the aided post of Craft Instructor, which is arising, consequent on the promotion of one Mr. G.Uppalaiah, Craft Instructor working in the said post. It is further stated that the fourth respondent school also addressed a letter to the District Educational Officer on
01-04-2002 stating that the management has created the un-aided post of Drawing Master and the petitioner was appointed in the said un-aided post of Drawing Master as he possessed requisite qualification for such appointment and he is also entitled for the post of Craft Instructor.

2. The District Educational Officer, Warangal filed counter stating that the appointment of the petitioner was never ratified by the competent authority and the fourth respondent school also vide its letter dated 10-10-2003 informed that there is no need of the post of Drawing Teacher in the School and the appointment of the petitioner as Drawing Master is without following any Rules and there is no sanctioned post for Drawing Master and therefore the question of ratifying the appointment of the petitioner does not arise.

3. Fourth respondent also filed a counter stating that the post of Drawing Master either to the aided or un-aided post was not ratified and therefore the question of absorption of the services of the petitioner to the post of Craft Instructor does not arise. It is further stated that the petitioner was never appointed or working in the fourth respondent institution. I am not inclined to address any opinion on the said submission of the fourth respondent, particularly in view of series of letters addressed by them stating that the fourth respondent passed unanimous resolution creating un-aided post of Drawing Master and appointed the petitioner. I am also not inclined to address any opinion whether the petitioner was working or not, but the question that arises for consideration in this Writ Petition is as to whether the services of the petitioner are entitled to be absorbed for the post of Craft Instructor / Drawing Teacher.

4. Admittedly, the appointment of the petitioner is not approved by any competent authority and therefore the question of absorption does not arise from the post of Drawing Master to the post of Craft Instructor. The petitioner has not applied for the selection post pursuant to the notification and in view of the fact that the appointment of the petitioner is not approved, and his services have not been regularized, the question of absorption of the petitioners services to the post of Craft Instructor does not arise.

I do not find any merits in this Writ Petition and it is accordingly dismissed. No order as to costs.

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(V. ESWARAIAH, J)

August 16, 2004

MRR/BCJ

To:

1 The District Educational Officer, Warangal.
2 The Regional Joint Director of School Education, Warangal.
3 The Deputy Educational Officer, Warangal.
4 The Correspondent and Secretary, Saraswathi High School, Kareemabad, Warangal.

5 Two C.C.s to the G.P for School Education, High Court Buildings, Hyderabad

(OUT)

6 Two C.D. Copies.